IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO: 7185 of 2005

Between:

V.Durgapati Naidu S/o Bhaskar Naidu, Occ: Paid Secretary

R/o D.No.113-8-2, Royal Nagar, R.C.Road, Tirupathi,

Chittor District.

.... PETITIONER

AND

1 District Cooperative Officer, Chittor

2. Divisional Cooperative Officer, Chittor

3. Person-in-Charge, Puthalapattu PACS, Puthalapattu

Mandal, Chittor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the action of the 3rd respondent in not paying the subsistence allowance is not legal and valid and consequently direct the 3rd respondent to pay the subsistence allowance in terms of Section 47(6) of the A.P. Shops and Establishment Act and pass such other or further orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR. K.Suresh Kumar Reddy

Counsel for the Respondents 1 &2 : G.P for Cooperation

The Court at the stage of admission made the following:

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ORDER:

This writ petition is filed seeking a writ of *Mandamus* declaring the action of the 3rd respondent in not paying the subsistence allowance is not legal and valid and consequently direct the third respondent to pay the subsistence allowance.

2. Heard learned counsel for the petitioner and the learned Standing Counsel for respondents.

3. The petitioner was placed under suspension by virtue of proceedings Rc.No.2/2003-04, dated 27.8.2004 of the third respondent on the ground of certain irregularities said to have been committed by the writ petitioner. According to learned counsel for the petitioner, subsistence allowance is not being paid from the date of the order of suspension. Hence the present writ petition.

4. Learned Standing Counsel for the respondents contends that it is a case of misappropriation of the funds of the Society.

5. There cannot be any dispute that payment of subsistence allowance is not a bounty. It is a matter of right and the respondents are bound to pay the subsistence allowance. Therefore, the writ petition is allowed directing the respondents to pay the subsistence allowance, in accordance with Rules and bye-laws and also under Section 47(6) of the A.P. Shops and Establishment Act, within a period of two weeks

from the date of receipt of copy of this order. Arrears, if any, shall be paid within four weeks from the date of receipt of copy of this order. No costs.

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K.C.BHANU, J

Dated: 01.04.2005

Note: Issue C.C in three days

(B/o)

RAR

To

1 The District Cooperative Officer, Chittor

2. The Divisional Cooperative Officer, Chittor

3. The Person-in-Charge, Puthalapattu PACS, Puthalapattu

Mandal, Chittor District.

4 2 CCs to G.P for Cooperation, High Court Buildings, Hyd. (OUT)

5 2 CD copies